



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,846	11/15/2000	Fred J. Chetcuti	NOVEP005	4803

25920 7590 06/20/2002

MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

EXAMINER

SHORTSLE, KEVIN P

ART UNIT	PAPER NUMBER
----------	--------------

1734

DATE MAILED: 06/20/2002

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/713,846

Applicant(s)

CHETCUTI ET AL.

Examiner

Kevin P. Shortsle

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12,21-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim 1-12, 21-25, drawn to an apparatus, classified in class 118, subclass 52.
 - II. Claims 13-20, drawn to a method, classified in class 427, subclass 240.
2. The inventions are distinct, each from the other because of the following reasons: Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus can be used to practice another materially different process such as when there is no fluid injected during spinning. Also the method as claimed can be practiced by another materially different apparatus, such as an apparatus where fluid injecting means are present to inject fluid as defined by the claimed process, and furthermore does not require the particulars of the claimed apparatus, such as the claimed structure of the base and sidewalls.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Art Unit: 1734

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Mr. Martine on 12/18/01 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-12 and 21-25. Affirmation of this election must be made by applicant in replying to this Office action. Claim 13-20 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1734

8. Claims 1, 3, 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Sichmann et al. (USPN 5,863,328). Regarding claim 1, Sichmann et al. disclose a spin bowl comprising: a base and a sidewall that extends from the base, the base has an upper portion and a lower portion that intersects with the sidewall, the lower portion of the base having a plurality of drain holes formed therein proximate to the sidewall, each of the drain holes is configured and capable to trap fluid therein during spinning of the spin bowl to thereby form a fluid seal that prevents air from flowing therethrough (See Col. 3, lines 3-15, Fig. 2, items 14, 56, 18-20).

Regarding claim 21, a spin bowl is disclosed comprising: a base and a sidewall that extends from the base, the base having an upper portion and a lower portion that intersects with the sidewall, the lower portion of the base having a plurality of drain holes formed therein proximate to the sidewall, the sidewall having an upper portion that extends upwardly from the base and a lower portion that extends downwardly from the base so as to at least partially define an external fluid catch area that receives excess fluid that drains from an interior of the spin bowl through the drain holes, the external fluid catch area being configured to retain the excess fluid while the spin bowl is spinning and thereby prevent the excess fluid from leaving the spin bowl at high velocity (See Col. 3, lines 3-15, Fig. 2, items 14, 56, 18-20).

Regarding claim 3, the sidewall is configured to define a fluid catch area, each drain hole is in fluid communication with the fluid catch area (See Fig. 2, items 56 and 20).

Art Unit: 1734

Regarding claim 22, the lower portion of the sidewall is inclined inwardly so that a tip thereof is situated closer to a center of the spin bowl than a point at which the lower portion of the sidewall intersects with the upper portion of the sidewall (See Fig. 2, items 19 and 20).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sichmann et al. in view of Tung et al. (USPN 6,220,771). Regarding claim 7, Sichmann et al. disclose a spin bowl comprising: a base and a sidewall that extends from the base, the base has an upper portion and a lower portion that intersects with the sidewall, the lower portion of the base having a plurality of drain holes formed therein proximate to the sidewall, each of the drain holes is configured and capable to trap fluid therein during spinning of the spin bowl to thereby form a fluid seal that prevents air from flowing therethrough (See Col. 3, lines 3-15, Fig. 2, items 14, 56, 18-20).

Sichmann et al. is silent to a lid. One in the art would appreciate that a lid encloses the spinning chamber, and thereby prevents particles and other contaminants from entering the chamber during processing. Such lids are well known and conventional as shown, for example, by Tung et al. (See Fig. 3, item 80). It would have been obvious to one of

Art Unit: 1734

ordinary skill in the art at the time of the invention to provide a lid to Sichmann et al. as shown, for example, by Tung et al. in order to provide a closed processing chamber, which thereby prevents particles and other contaminants from entering the chamber during processing.

Regarding claim 8, one of ordinary skill would choose obvious variants of the design for the drain holes, including a V-shape, as is within the purview and level of ordinary skill in the art for the intended function.

Regarding claim 9, the sidewall is configured to define a fluid catch area, each drain hole is in fluid communication with the fluid catch area (See Sichmann et al., Fig. 2, items 56 and 20).

Regarding claim 10, each drain hole has an inlet and outlet, wherein each inlet is oriented closer to a center of the spin bowl than the outlet (See Tung et al., Fig. 3, item 65).

Regarding claims 11 and 12, the angles at which the drain holes are oriented are considered to be within the claimed ranges, and more specifically about 45 degrees relative to the horizontal plane defined by the upper portion of the base (See Tung et al., Fig. 4, item 65).

11. Claims 2, 4-6 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sichmann et al. as applied to claims 3 and 21 above, and further in view of Tung et al. Regarding claims 4 and 23, Sichmann while disclosing the lower portion of the base having drain holes is silent to the specific structure of such. One in

Art Unit: 1734

the art would appreciate any conventional design for the drain holes for the intended function, such as a drain hole having an inlet and outlet wherein the inlet is oriented closer to the center of the spin bowl than the outlet, such a design is known and conventional and shown, for example, by Tung et al. (See Fig. 3, item 65). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Sichmann et al. with drain holes of any conventional design for the intended function, such as those described above and shown, for example, by Tung et al. It is noted that an express suggestion to substitute one equivalent component or process for another is not necessary to render such substitution obvious. *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982) (See also, MPEP 2144.06).

Regarding claim 2, one of ordinary skill would choose obvious variants of the design for the drain holes, including a V-shape, as is within the purview and level of ordinary skill in the art for the intended function.

Regarding claims 5-6 and 24-25, the angles at which the drain holes are oriented are considered to be within the claimed ranges, and more specifically about 45 degrees relative to the horizontal plane defined by the upper portion of the base (See Tung et al., Fig. 4, item 65).

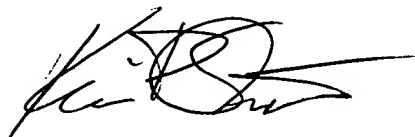
Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin P. Shortle whose telephone number is 703-308-8193. The examiner can normally be reached on M-F, 8-4:30 p.m..

Art Unit: 1734

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D. Crispino can be reached on 703-308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



K. P. Shortsle
June 16, 2002



RICHARD CRISPINO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700